

(3) The applicant is not in violation of provisions of law, the FCC rules, or established policies of the FCC; and

(4) A grant of the application would otherwise serve the public interest, convenience and necessity.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the FCC will not consider any other application, or any application if amended so as to require a new file number, as being mutually exclusive or in conflict with the application under consideration unless such other application was substantially complete, and tendered for filing by:

(1) The close of business on the day preceding the day designated by Public Notice as the day the listed application is to be available and ready for processing;

(2) The date prescribed in § 73.3516(e) in the case of applications which are mutually exclusive with applications for renewal of license of broadcast stations; or

(3) The close of business on the day designated by the FCC pursuant to § 73.3564(d) as the date(s) for filing low power TV or TV translator applications.

(c) If a petition to deny the application has been filed in accordance with § 73.3584 and the FCC makes the grant in accordance with paragraph (a) of this section, the FCC will deny the petition and issue a concise statement setting forth the reasons for denial and disposing of all substantial issues raised by the petition.

(d) Renewal applications filed after May 1, 1995 will be governed by the criteria established in 47 U.S.C. § 309(k).

[44 FR 38507, July 2, 1979, as amended at 50 FR 47844, Dec. 7, 1984; 59 FR 31557, June 20, 1994; 61 FR 18291, Apr. 25, 1996]

#### § 73.3592 Conditional grant.

(a) Where a grant of an application would preclude the grant of any application or applications mutually exclusive with it, the FCC may, if the public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if,

at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of broadcast service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest, and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest, and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or the provisions of the FCC rules.

(b) When two or more applications for the same AM, FM or TV assignment have been designated for hearing, the FCC may, if the public interest will be served thereby, make a conditional grant to a group composed of any two or more of the competing applicants, such grant to terminate when the successful applicant commences operation under the terms of a regular authorization. No conditional grant will be made unless all of the competing applicants have been afforded a reasonable opportunity to participate in the group seeking the conditional grant. In its application, the group shall include a special showing as to the need for the service pending operation by the successful applicant under the terms of a regular authorization; the effect, if any, of a grant on the position of any applicant which is not a member of the group; and any other factors which are deemed pertinent to the public interest judgment.

[44 FR 38507, July 2, 1979]